

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RUTH SMITH, Individually and as Widow for the)	
Use and Benefit of Herself and the Next Kin of)	
Richard Smith, Deceased,)	
)	
Plaintiff,)	Civil No. 3:05-0444
)	Judge Aleta A. Trauger
v.)	(Dist. Of MA No.
)	1:05-cv-11515PBS)
PFIZER, INC., <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS' MOTION *IN LIMINE* TO EXCLUDE TESTIMONY
OF DAVID FRANKLIN AND EVIDENCE OF THE *FRANKLIN* LITIGATION**

Pursuant to the Federal Rules of Evidence, Defendants Pfizer Inc and Warner-Lambert Company LLC (collectively, "Defendants" or "Pfizer") respectfully move this Court for an order excluding any evidence of or reference to: (1) any testimony of David Franklin; and (2) the separate and unrelated *qui tam* action styled *United States ex rel. Franklin v. Parke-Davis, Division of Warner-Lambert Company, & Pfizer Inc.*, No. 1:96-CV-11651-PBS (D. Mass. filed Aug. 13, 1996). This evidence bears no connection to the claims in this action, thus rendering it irrelevant under Rules 401 and 402. Moreover, the unfair prejudice to Pfizer from admitting such evidence would substantially outweigh any possible probative value, thus mandating its exclusion under Rule 403. Further, to the extent that this evidence constitutes prior bad acts used to show Pfizer's propensity, it is inadmissible under Rule 404(b). Accordingly, all such evidence should be excluded.

The grounds for this motion are set forth in more detail in the accompanying memorandum of law. Also submitted in support of this motion is a Declaration of Mark S. Cheffo.

WHEREFORE, Defendants respectfully request that the Court exclude at trial all of the evidence described above.

Dated: April 16, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 16th day of April 2010, I electronically filed the foregoing document with the Clerk of the Court, United States District Court for the Middle District of Tennessee, using the CM/ECF system. True and correct copies of the foregoing documents are being served via the Court's CM/ECF system on the following:

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